

**MEMO ENDORSED**

LAWYERS



**Davis Wright Tremaine LLP**

ANCHORAGE BELLEVUE LOS ANGELES NEW YORK PORTLAND SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON, D.C.

MARCIA B. PAUL  
DIRECT (212) 603-6427  
marciapaul@dwt.com

1633 BROADWAY  
NEW YORK, NY 10019-6708

TEL (212) 489-8230  
FAX (212) 489-8340  
www.dwt.com

November 27, 2007

**VIA FACSIMILE:**

Honorable P. Kevin Castel  
United States District Judge  
United States Courthouse  
500 Pearl Street, Room 2260  
New York, NY 10007  
(212) 805-7949

**USDS SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 11/27/07**

**Re: *Viacom International Inc. v.***  
***Special Productions, Inc. et al.*, 07 Civ. 9237**

Dear Judge Castel:

We represent the plaintiff Viacom International Inc. ("Viacom") in the above-captioned matter. We write following a telephone conversation with your clerk, Mr. D'Agostino, in connection with the initial case management conference scheduled to take place before Your Honor this Friday, November 30, 2007 at 11:45. Defendants were served with the summons and complaint but have failed to answer or otherwise move within the required time; in addition, we have received no response to our efforts to contact defendants with regard to this lawsuit and to discuss our mutual obligations in advance of Friday's conference. Accordingly, we write to inform you of plaintiff's intention to seek a default judgment.

This action arises from the unlawful use by defendants of Viacom's copyrights, trademarks and service marks in certain famous names and characters including SPONGEBOB SQUAREPANTS, DORA THE EXPLORER and DIEGO. Defendant Special Productions Inc. ("Special Productions") and its Executive Producer, Michael Davids ("Davids"), have repeatedly advertised, offered for sale and sold services infringing Viacom's rights, including: preparing and performing unauthorized derivative works of Viacom's copyrighted works; preparing and renting counterfeit costumes confusingly similar to Viacom's famous characters; and contracting to provide unauthorized appearances by defendants' characters at live events in the counterfeit costumes. Viacom made numerous efforts to resolve the dispute short of litigation but without success. Viacom has therefore asserted multiple claims for copyright infringement, trademark infringement and dilution, unfair competition and false advertising, and various related state law

Honorable P. Kevin Castel  
November 27, 2007  
Page 2



claims. Viacom seeks a permanent injunction, impoundment of the counterfeit costumes, treble damages, profits or statutory damages and an award for attorneys fees.

The complaint was filed on October 15, 2007. After several attempts to serve defendant Special Productions at its offices at 1133 Broadway, it was served on October 17, 2007 by leaving two copies of the summons and complaint at the offices of the New York Secretary of State in Albany. Special Productions was also served by "nail and mail" by affixing a copy of the summons and complaint to the door of 1133 Broadway and by mailing a copy to the same address. After attempts to serve Davids at his last known residence in New York City, he was also served by affixing a copy of the summons and complaint to the door of his actual place of business, 1133 Broadway and by mailing a copy to the same address. Following the filing of proofs of service, Viacom emailed a courtesy copy of the summons and complaint to defendants, as well as a copy of this Court's order dated October 19, 2007, and urged defendants to respond or provide the name of their counsel. To date we have received no response. Nor did either defendant file an answer or otherwise move by the due dates of November 14 or November 16.

Accordingly, Viacom intends to seek this Court's permission to file for default judgment and respectfully requests guidance as to whether or not the initial conference on Friday November 30, will proceed as scheduled.

Respectfully submitted,

*Marcia B Paul*

Marcia B. Paul

cc: Michael Davids  
Special Productions, Inc.  
(via email)

*Proceed with motion  
for default judgment. Preparation  
conference waived.  
Conference date of  
November 30 is vacated.  
Motion due  
December 18. Consult  
the Court's default  
procedures on  
SDNY website.  
S O ORDERED.  
JSDJ  
11-27-07*